



## *Report to the Auburn City Council*

Action Item

7

Agenda Item No.

City Manager's Approval

**To:** Mayor and City Council Members  
**From:** Richard J Ramirez, Interim City Manager  
**Prepared by:** Amy M. Lind, Deputy/Assistant City Clerk  
**Date:** May 12, 2014  
**Subject:** City Manager Employment Agreement

### **The Issue**

Shall the City Council approve the attached Employment Agreement for Timothy L. Rundel?

### **Conclusion and Recommendation**

That the City Council, by RESOLUTION, approve the Employment Agreement for Timothy L. Rundel.

### **Background**

With the departure of Mr. Richardson, the City initiated recruitment for a new City Manager. The City entered into a professional services agreement with Peckham and McKenny to handle the process. Peckham and McKenny received a surprising number of highly qualified applicants and made sure they met the profile and requirements of the Auburn City Manager position. However, after two lengthy interviews and the back ground process, one applicant, Tim Rundel, came out on top across the board. Currently, Mr. Rundel is the Assistant City Manager for Midwest City, Oklahoma where he oversees the operations of Public Safety, Public Works, Community Development and Code Enforcement. Mr. Rundel attended Northwestern Oklahoma State University, earning a Bachelor's degree and received a Masters of Public Administration from the University of Oklahoma. Under the terms of his agreement Mr. Rundel's tentative start day is May 29, 2014 and his salary will be \$152,000 per year.

### **Alternatives**

Alter the agreement  
Deny agreement

### **Fiscal Impact**

Annual salary is \$152,000. This amount can be addressed within the existing budget without amendment.

### **Attachments**

Employment Agreement

**EMPLOYMENT AGREEMENT  
BETWEEN THE CITY OF AUBURN AND TIMOTHY L. RUNDEL**

**RECITAL**

1. On April 28, 2014 the City Council selected Timothy L. Rundel (hereafter "City Manager") to serve as City Manager of the City of Auburn ("City"), subject to approval of an employment agreement between City and City Manager. On May 13, 2014, the City Council approved the Agreement set forth here. Accordingly, the parties agree as follows:

**AGREEMENT**

2. **Effective Date; Medical Clearance**

This Agreement shall become effective when it has been executed by City Manager and duly approved by the City Council. Employee shall start work on the date he indicates below, which shall not be later than June 2, 2014. On or before the thirtieth day following City Manager's first day of work, he shall obtain and provide to the City a medical clearance demonstrating his fitness for duty, with or without reasonable accommodation under applicable law.

3. **Term**

Pursuant to Auburn Municipal Code Section 31.016, City Manager serves at the pleasure of City Council and on an "at will" basis during the term of this Agreement. This contract shall remain in effect until terminated by either party as provided below.

4. **Duties; Hours of Work**

A. City Manager shall perform those functions and duties specified by State law, the Auburn Municipal Code and by formal direction of the City Council. City Manager shall perform such duties in accordance with the highest professional and ethical standards of the city management profession. City Manager shall not engage in any activity which is or may become incompatible with the office of City Manager under State law. During the term of this agreement, City Manager shall be exclusively employed by the City unless the City Council grants prior authorization otherwise, which authorization the City Council will not unreasonably withhold.

B. City Manager shall maintain a regular work schedule consistent with that approved for other management employees of the City. City Manager's duties may involve more than eight hours per day and/or 40 hours per week, and may also include time outside normal office hours such as attendance at City Council meetings. City Manager shall not be entitled to additional compensation for such time.

**5. Compensation; Initial Relocation Benefit**

A. City Manager's annual salary shall be \$152,000.

B. City Manager's compensation shall be reviewed at least annually in connection with the annual review required by section 14 below or at other times as may be determined by City Council. Further, it is understood that the City Council intends to increase salary or other benefits, depending on City Manager's performance.

C. To assist City Manager in relocating to the City, the City shall pay on a one-time basis:

1. The lesser of \$5,000 or six month's rent to assist City Manager in obtaining housing within a reasonable response time of the City.

2. The lesser of \$5,000 or the actual cost to pack, transport and unpack the household belongings of City Manager and his family.

**6. Health Insurance**

City shall pay the full premium for health insurance for City Manager and his eligible dependents under the health plan offered to City employees.

**7. Life Insurance**

City shall provide term life insurance of twice City Manager's annual salary. Such insurance shall be provided by the insurer insuring other City employees or by another insurer acceptable to City.

**8. Management Administrative Leave**

City Manager shall be entitled to 10 days' management administrative leave per year. In the event such leave is not used, City Manager may receive equivalent cash compensation therefor in full or part at any time during the year. Management administrative leave time may not be accumulated from year to year.

**9. Annual Vacation Leave**

City Manager shall be entitled to fifteen days' annual vacation leave. City Manager may receive equivalent cash compensation for unused leave in full or in part at any time during the year. City Manager shall provide sufficient notice of vacation leave of more than a week so that the Council may determine whether that absence may be taken at that time without detriment to the City.

**10. Other Leaves and Benefits**

All other personal leave, family leave, funeral leave, or sick leave shall be as provided to other management employees of the City. City shall afford City Manager such other benefits as are provided to other management employees of the City on the same terms as provided to those employees except as otherwise expressly provided in this Agreement.

**11. Auto**

Because the City Manager's duties require frequent use of his automobile, City Manager shall be entitled to \$400 per month as an automobile allowance. This allowance is in lieu of reimbursement of mileage or other expenses City Manager may incur to use of his automobile for City purposes. City Manager shall be responsible for all costs of maintenance and operation of his vehicle. City Manager shall at all times maintain automobile liability insurance on any vehicle he uses for City purposes. Such insurance shall have coverage limits acceptable in form and amounts to the City. City Manager shall provide a certificate or evidence of such insurance to the City.

**12. Professional Memberships & Meetings; Other Expenses**

A. City shall pay for City Manager's memberships in the League of California Cities and International City / County Management Association. City shall pay for City Manager to attend the annual League of California Cities conference. City will pay for such other professional memberships and conference attendance as may be approved and budgeted by the City Council.

B. City recognizes that City Manager may incur expenses of a non-personal and job-related nature. City agrees to reimburse City Manager for reasonable expenses which are authorized by the City budget; submitted to the City Council for approval; and supported by expense receipts, statements or personal affidavits, and audit thereof in like manner as other demands against the City.

**13. Retirement Program**

City shall provide the same PERS retirement benefits to City Manager as are received by other management employees of the City. City shall contribute \$155 per month to City Manager's deferred compensation plan.

**14. Annual Performance Evaluation**

The City Council shall evaluate City Manager's performance at least once annually. The City Council and City Manager shall annually develop mutually agreeable performance goals and standards which the City Council shall use in reviewing City Manager's performance in the following year. It shall be City Manager's responsibility to initiate this review each year. City Manager will be afforded an adequate opportunity to discuss each evaluation with the City Council.

**15. Indemnification**

City shall defend, hold harmless and indemnify City Manager against any claim, demand, judgment, or action of any type or kind arising within the course and scope of City Manager's employment as required by Government Code Sections 825 and 995.

**16. Other Terms and Conditions of Employment**

A. The City Council may from time to time fix other terms and conditions of employment relating to the performance of City Manager, provided such terms and conditions are not inconsistent with or in conflict with the provision of this Agreement, the Auburn Municipal Code, or other applicable law.

B. The provisions of the City's Personnel Rules and Regulations ("Rules") shall apply to City Manager to the extent they explicitly apply to the position of City Manager, except that if this Agreement conflicts with the Rules, this Agreement shall prevail. Without limiting the generality of the exception noted in the previous sentence, however, no provision of the Rules or this Agreement shall confer upon City Manager a property right in his employment or a right to be discharged only upon cause. City Manager is an at-will employee serving at the pleasure of the City Council and may be dismissed at any time with or without cause, subject only to the provisions of this Agreement.

C. City Manager shall be exempt from overtime pay and from Social Security taxes other than the mandatory Medicare portion of such taxes.

#### **17. Termination Without Cause**

The City Council may terminate City Manager's employment at any time and without cause, upon 90 days' written notice to City Manager. In the event of such termination without cause, City Manager shall be entitled to a severance benefit, as follows:

- a. six monthly installments of the City Manager's current salary; and
- b. six monthly installments of 30 percent of the City Manager's current salary, in lieu of all other benefits that would have otherwise accrued during the nine-month period including, but not limited to, vacation leave, sick leave, administrative leave, deferred compensation, and other benefits.

Such payments shall be made when other City employees are paid. Upon payment of this severance compensation, City shall have no further obligation to City Manager.

#### **18. Termination With Cause**

The City Council may terminate City Manager's employment with City for cause, upon 90 days' written notice to City Manager. In the event of termination of employment for cause, City shall have no obligation to continue the employment of City Manager or pay any severance. For purposes of this agreement, the term "for cause" includes:

- a. use of alcohol or drugs that impedes performance of duties;
- b. conviction of a felony, or misdemeanor involving moral turpitude (a plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed a conviction for this purpose);
- c. a proven claim of either sexual harassment or abuse of employees in violation of law or adopted City policy;
- d. willful and repeated failure to carry out the lawful directives or policy decisions of the City Council; or
- e. willful abandonment of the position or continued and unexcused absence from duty.

**19. Voluntary Termination**

City Manager may voluntarily terminate his employment, by resignation or retirement, at any time during the term of this agreement, subject to at least 45 days' written notice to City. In such case, City shall have no further obligation to provide payments and benefits, including severance benefits, upon the effective date of termination of employment.

**20. Compliance With Law**

This Agreement is subject to all applicable provisions of State and Federal law and to the provisions of the Auburn Municipal Code.

**21. General Provisions**

A. This Agreement constitutes the entire agreement between the parties. City and City Manager hereby acknowledge that they have neither made nor accepted any other promise or obligation with respect to the subject matter of this Agreement.

B. If any provision or any portion of this Agreement is held to be unconstitutional, invalid or unenforceable, the remainder of the Agreement shall be deemed severable and shall not be affected and shall remain in full force and effect.

C. Any notice to City pursuant to this Agreement shall be given in writing, either by personal service or by registered or certified mail, postage prepaid, addressed as follows:

Mayor  
City of Auburn  
125 Lincoln Way, Room 8  
Auburn, CA 95603-5004.

With a courtesy copy to:

Michael G. Colantuono, Esq.  
Auburn City Attorney  
11364 Pleasant Valley Road  
Penn Valley, CA 95946-9000.

Any notice to City Manager shall be given in a like manner, and, if mailed, shall be addressed to City Manager at the address then shown in City's personnel records. For the purpose of determining compliance with any time limit stated in this Agreement, a notice shall be deemed to have duly given:

- a. on the date of delivery, if served personally, or
- b. on the second day after mailing, if mailed.

D. If an action at law or in equity is necessary to enforce or interpret this Agreement, the prevailing party shall be entitled to reasonable and actual attorneys' fees and costs with respect to the prosecution or defense of the action.

E. A waiver of any of the terms and conditions of this Agreement shall not be construed as a general waiver and either party shall be free to enforce any term or condition of this Agreement with or without notice to the other notwithstanding any prior waiver of that term or condition.

F. This Agreement may be executed in counterparts which shall together constitute a single Agreement and signatures may be exchanged by facsimile, email or other electronic means with the same effect as original, wet signatures.

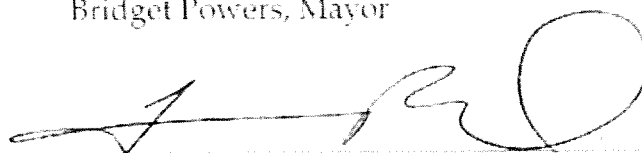
## 21. Amendments

Amendments to this agreement may be made at such times as approved by the City Council and City Manager and shall be in writing.

Dated: \_\_\_\_\_

Bridget Powers, Mayor

Dated: 4/30/14




Timothy L. Rundel

I wish to start work on May 29 2014.

Approved as to form:





Michael G. Colantuono  
City Attorney

Dated: 4/28/17

Attest:

Stephanie L. Snyder  
City Clerk

Dated: \_\_\_\_\_

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